

ROCKETEER ADVISORY

From: Bill DAgostino <Bill.DAgostino@ussurg.com>
To: FCC E-mail Address <fccinfo@fcc.gov>
Date: 6/3/98 12:38pm
Subject: Reply Comments to RM-9259

RM-9259

Before the

FEDERAL COMMUNICATIONS
COMMISSION
Washington, DC 20554

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JUN - 3 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

RE: RM-9259

In the Matter of
Mandating the Voluntary Band Plans
as New Federal Regulations
in the Amateur Radio Service
(RM-9259)

To:
The Chief, Private Wireless Division
Federal Communications Commission

cc:
Chairman William E. Kennard
Commissioner Susan Ness
Commissioner Michael Powell
Commissioner Harold Furchgott-Roth
Commissioner Gloria Tristani

REPLY COMMENTS OF
WILLIAM L. D'AGOSTINO, WB1DMK

I am writing in response to the comments from
the American Radio Relay Leagues's (ARRL)
request for an FCC declaratory ruling to
establish regulatory (mandatory) Amateur
Radio "Band Plans."

The Commission should reject the ARRL's
proposal for the following four reasons:

- [1] ARRL has attempted to circumvent the
standard Petition for Rulemaking process;
- [2] ARRL proposal should be denied because
it is inconsistent with the intent of the Amateur
Radio Service;
- [3] ARRL's proposal should be rejected due to
implementation, coordination and
enforcement problems;
- [4] ARRL mandatory band plans would greatly
restrict the operation of Amateur Radio

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Stations during emergency situations.

First of all, the ARRL has attempted to circumvent the standard Petition for Rulemaking process (which includes public notice and public comments) by masquerading a major rule change request as a request for an "administrative" ruling (i.e., Declaratory Ruling).

In the comments filed by the ARRL with the Commission, the ARRL strongly implies that the Commission was 'out-of-line' for the "extraordinary treatment" of this matter. The ARRL believes that the Commission improperly handled the ARRL's request by treating the Request for Declaratory Ruling as a Petition for Rulemaking. In addition to the arrogant tone in the formal ARRL comments, the ARRL recently issued a press release on Friday, May 29, 1998 which boldly stated that the ARRL's request "was mishandled by the FCC and misunderstood by the amateur community." In addition, the ARRL stated in its official monthly journal that, "[A]mateur operation that conflicts with established voluntary band plans and causes interference OR ADVERSELY AFFECTS THOSE OPERATING IN ACCORDANCE WITH APPLICABLE BAND PLANS WOULD VIOLATE FCC RULES." (This quotation appears on page 65 in the June 1998 issue of QST with emphasize added.) This ARRL statement clearly annotates that this "declaratory ruling request" is actually mandatory rule change concerning the Amateur Radio Service.

I strongly object to the ARRL's attempt to "ram-rod" a major change to the Amateur Radio rules by attempting to use obscure parliamentary procedures to avoid public scrutiny. Throughout the ARRL's comments, the ARRL consistently claims that their request does affect the Amateur Radio rules and that it is merely an administrative request. However, if the Commission were to adopt the ARRL's proposal, then previously voluntary band plans would become mandatory regulations with the full force of Federal Law. The ARRL's campaign to compel the Commission to redefine the meaning of the ambiguous and vague reference to "good amateur practice" can only be interpreted as a direct attempt to convert the voluntary status of band plans to mandatory requirements affecting the entire Amateur Radio Service. This proposed mandate is not simply an "administrative" issue, and I strongly applaud and commend the Commission for recognizing that this

proposal is really a major rule making request.

The second reason why the ARRL proposal should be denied is that it is inconsistent with the intent of the Amateur Radio Service. The ARRL's comments forcefully infer that the proposed mandatory band plans are needed to allocate and ration the "congested" Amateur Radio spectrum. This request is inconsistent with the concept that Amateur Radio is a shared resource among all of its licensed operators, and that no operator nor group of operators has a special "right" to use any special or specific frequency. If the ARRL's proposal is adopted, then small groups of special users will have "rights" to specific frequencies while excluding all others. This proposal would be disastrous to the Amateur Radio Service as it would be equivalent to the "privatizing" the Amateur Radio spectrum in favor of a few elite users.

The third reason why the ARRL's proposal should be rejected is that the ARRL's does not supply any information concerning how the proposed mandatory band plans will be implemented and enforced. The current "voluntary band plan" is really a collection of numerous informal regional plans. The ARRL's proposal and reply comments offers no solution to "how" these informal band plans will be coordinated, nor does the ARRL's proposal address "how" these plans will interact especially since radio waves can propagate across numerous band plan regions. For example, will an Amateur Radio Operator be violating Federal Law if she is complying with her local band plan yet her signal is propagating across the country into a region where her operation would be prohibited? Likewise, the ARRL does not offer any information concerning "how" a mobile Amateur Radio Operator could comply with the numerous local band plans throughout the United States as he travels on our nation's highways. In short, the ARRL's proposal would be devastating to the Amateur Radio Service.

Finally, the proposed ARRL mandatory band plans would greatly restrict the operation of Amateur Radio Stations during and immediately after emergency situations. The Amateur Radio Service has a long and proud history of "saving-the-day" after major disasters especially when commercial communication systems have failed. Great flexibility on behalf the of the Amateur Radio Service is needed to respond to major emergencies and crises, and the proposed

mandatory band plans would greatly restrict the this flexibility which will impede emergency communications. The ARRL's proposal will obstruct and hinder Amateur Radio Operators by limiting the available frequencies to pass emergency and welfare messages after a major disaster. This objection alone should be sufficient reason for the Commission to reject the ARRL's proposal for mandatory band plans.

In conclusion, I am a twenty year veteran of the Amateur Radio Service and a Life Member of the ARRL as well as an active member of the Amateur Radio Emergency Service. I strongly object to the creation of additional mandatory Amateur Radio regulations especially when the propose mandatory regulations will hurt the Amateur Radio Service. Amateur Radio has a long and proud history of using shared frequencies, and the Commission should not restrict the use of Amateur Radio based on the desires of a small number of special interest groups. I strongly believe that this type of "catering" to special interest groups is inconsistent with the intent of this hobby! Please reject the ARRL's proposal to create mandatory band plans.

Thank you for your time in considering these reply comments.

Sincerely,

William L. D'Agostino
WB1DMK
19 Douglas Drive
Hamden, CT 06518
email: wb1dmk@qsl.net

cc:

Rodney Stafford, W6ROD, ARRL President,
w6rod@arrrl.org
Stephen Mendelsohn, W2ML, ARRL First Vice
President, w2ml@arrrl.org
Joel Harrison, W5ZN, ARRL Vice President,
w5zn@arrrl.org
Hugh Turnbull, W3ABC, ARRL Vice President,
w3abc@arrrl.org
David Sumner, K1ZZ, ARRL Executive Vice
President, k1zz@arrrl.org
Tom Frenay, K1KI, ARRL New England
Director, k1ki@arrrl.org

CC: ARRL Rodney Stafford <w6rod@arrl.org>, ARRL Stephe...